

SEP 02 2020

JULIA C. DUDLEY, CLERK
BY: s/ H. McDONALD
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

LEONARD WALTON,

Plaintiff,

v.

Civil Action No. 4:20CV00053
Danville Circuit Court Case No. CL20-705

TRIKA DENISE JACKSON and
THE SALVATION ARMY,

Defendants.

NOTICE OF REMOVAL

Defendants The Salvation Army and Trikia Denise Jackson, improperly named as Trika Denis Jackson (“Jackson”) (collectively, “Defendants”), by counsel and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby file this Notice of Removal on the following grounds:

1. This is a personal injury action in which Plaintiff claims to have been injured in an automobile accident as a result of the alleged negligence of Jackson. Plaintiff alleges that The Salvation Army, as Jackson’s employer, is liable for Jackson’s negligence under the theory of respondeat superior.

2. Plaintiff filed a Complaint in the Circuit Court of the City of Danville on July 31, 2020, seeking \$250,000.00 in compensatory damages against the Defendants. Copies of the Summonses to each Defendant and the Complaint are attached collectively hereto as Exhibit A.

3. Plaintiff served The Salvation Army’s registered agent on August 12, 2020.

4. Plaintiff served the Secretary of the Commonwealth with process on August 5, 2020 for service on Jackson pursuant to Section 8.01-329 of the Code of Virginia. Upon

information and belief, the certificate of compliance for service pursuant to Section 8.01-329 of the Code of Virginia was filed with the City of Danville Circuit Court on August 19, 2020.

Affidavits and proof of service documents are attached collectively hereto as Exhibit B.

5. Defendants timely filed an Answer to the Complaint in the Circuit Court for the City of Danville on August 28, 2020, a copy of which Defendants have attached as Exhibit C.

6. Copies of all process, pleadings, and orders served upon Defendants are attached hereto, in accordance with 28 U.S.C. § 1446(a).

7. There have been no further proceedings in this action.

7. Upon information and belief, Plaintiff is a citizen of Virginia.

8. Defendant The Salvation Army is, and was at the time this action was filed, incorporated in Georgia with its principal place of business in the state of Georgia. Defendant The Salvation Army was not, and is not now, a citizen of the Commonwealth of Virginia.

9. Defendant Jackson is, and was at the time this action was filed, a resident of Atlanta, Georgia and citizen of Georgia.

10. This action involves a controversy wholly between citizens of different states. There is complete diversity of citizenship.

11. The amount in controversy in this action, exclusive of interest and costs, exceeds \$75,000.00.

12. All Defendants consent to removal of this matter.

13. This Court has original jurisdiction in this matter pursuant to 28 U.S.C. § 1332(a), and the action may therefore be removed to this Court pursuant to 28 U.S.C. § 1441(a). The Salvation Army and Jackson jointly seek to remove this action to this Court.

14. Copies of all process, pleadings, and orders served upon Defendants are attached hereto, in accordance with 28 U.S.C. § 1446(a).

15. Pursuant to 28 U.S.C. § 1446 (b)(3), this Notice of Removal is filed “within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.”

16. Pursuant to 28 U.S.C. § 1446(d), Defendants will promptly notify Plaintiff’s counsel of this Notice of Removal and will file a copy of this Notice of Removal with the Circuit Court of the City of Danville.

17. Defendants demand a trial by jury pursuant to Federal Rule of Civil Procedure 38.

WHEREFORE, The Salvation Army and Trikia Denise Jackson, improperly named Trika Denise Jackson, by counsel, respectfully request that this action be removed from the Circuit Court of the City of Danville, Virginia, to this Court.

THE SALVATION ARMY and
TRIKIA DENISE JACKSON

/s/ _____
Lawrence A. Dunn (VSB No. 30324)
Gibson S. Wright (VSB No. 84632)
McCandlish Holton, PC
P.O. Box 796
Richmond, VA 23218
(804) 775-3100 Telephone
(804) 775-3800 Facsimile
ldunn@lawmh.com
gwright@lawmh.com
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of September, 2020, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system. I further certify that on this 2nd day of September, 2020, a true and accurate copy of the foregoing will be sent via email and U.S. mail to

Brent A. Shelton, Esq.
Haymore & Holland, P.C.
219 Patton Street
Danville, VA 24541
brent@haymorehollandlaw.com

and via U.S. mail to

The Hon. Gerald A. Gibson, Clerk
Danville Circuit Court
P.O. Box 3300
Danville, VA 24543

/s/ _____
Gibson S. Wright (VSB No. 84632)
McCandlish Holton, PC
P.O. Box 796
Richmond, VA 23218
(804) 775-3100 Telephone
(804) 775-3800 Facsimile
gwright@lawmh.com
Counsel for Defendants